

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

WESTERN ORGANIZATION OF)
RESOURCE COUNCILS, *et al.*,)
Plaintiffs,) Case No. 4:20-cv-00076-GF-BMM
v.)
U.S. BUREAU OF LAND)
MANAGEMENT,)
Defendant, and)
STATE OF WYOMING,)
Intervenor Defendant.)

)

**DECLARATION OF
THERESA HANLEY**

I, Theresa Hanley in accordance with the requirements of 28 U.S.C. § 1746,
declare:

1. I am over 18 years of age, competent to testify in this case, and have personal knowledge of the matters discussed in this declaration.
2. I am the Associate State Director for the Montana-Dakotas Bureau of Land Management (BLM). I have been employed with BLM in this capacity since November 2019, and most recently was the Acting State Director from January 2,

2022 through August 13, 2022. I have worked for BLM for over 30 years in various capacities.

3. In my capacity as the Montana-Dakotas Associate State Director, I will oversee BLM's preparation of Resource Management Plans (RMPs) in Montana, and in particular, will oversee any changes to the Miles City Montana RMP amendment.

4. On March 26, 2018, the United States District Court for the District of Montana Great Falls Division ordered BLM Wyoming and BLM Montana to complete remedial NEPA analysis on the Buffalo and Miles City RMPs. The Court ordered BLM to complete new coal screening, supplement its analysis of the environmental consequences of downstream combustion of coal, oil, and gas open to development, and to justify the time horizon of the estimated global warming potential impacts. The Court also ordered the BLM and plaintiffs to meet and confer to in good faith to reach an agreement as to remedies.

5. On July 31, 2018, the United States District Court of Montana ordered the BLM to complete new coal screening and remedial NEPA analysis within 16-months (by November 29, 2019). This remedial analysis included among other items, new coal screening and supplemental analysis of the environmental consequences of downstream combustion of coal, oil, and gas open to development.

6. To meet the Court-ordered timeframes, BLM retained private contractors to assist on completing the two Supplemental Environmental Impact

Statements (SEISs) and to complete the administrative record for each SEIS.

BLM's outside contracting costs to complete the SEISs and administrative records was \$953,531.

7. On November 22, 2019, the BLM completed the Buffalo and Miles City SEISs.

8. On August 27, 2020, plaintiffs challenged the BLM's approvals of the 2019 Buffalo Wyoming and Miles City RMP amendments.

9. On August 3, 2022, the United States District Court for the District of Montana Great Falls Division ordered the BLM to complete within 12 months new coal screening and remedial NEPA analysis for the Buffalo and Miles City RMPs to address the following: (1) new coal screening and NEPA analysis that considers no leasing and limited coal leasing alternatives, (2) disclosure of the public health impacts, both climate and non-climate, of burning fossil fuels (coal and oil and gas) from the planning areas, (3) complete comprehensive environmental analysis in compliance with the Order and all existing procedural requirements for any new or pending leases of coal, oil, or gas resources in the planning areas.

10. On August 4, 2022, BLM Wyoming and BLM Montana/Dakotas received the Court Order.

11. BLM Wyoming and BLM Montana/Dakotas will need to initiate the RMP amendment process, which will require two SEISs to address the remedial NEPA analysis ordered by the Court.

12. BLM will need at least 16 months to complete the supplemental NEPA analysis. Attached as Exhibit 1 is a project schedule which incorporates regulatory timeframes necessary for SEISs, including federal contracting timeframes, time for drafting the RMPs/SEISs; public comment and governors' consistency reviews and issuance of the final Records of Decision as outlined in the BLM's Land Use Planning Handbook (H1601-1).

13. The Miles City Field Office has pending, ongoing planning projects that require many of the same personnel and already present a time commitment for those personnel. These include corrective NEPA for several oil and gas lease sales, Greater Sage-Grouse Planning amendments that requires a number of the same personnel that are also required for an SEIS (i.e. NEPA planners, wildlife biologists, GIS specialists, etc.), other on-going projects with competing timelines and personnel resources, including in the Miles City Field Office the North Dakota Resource Management Plan EIS, a large carbon sequestration project, and an extensive powerline connection project.

14. All Bureau EISs are to be reviewed in accordance with the Department's policy ERM 10-11, Departmental Clearance Process for Environmental Impact Statements. The review process consists of formal briefings at various stages of the EIS process including the notice of intent (NOI), the notice of availability for the draft EIS, and final EIS, with an additional briefing at the end of scoping on an as needed basis. Each of these briefings need to be scheduled

(within two weeks of the request whenever possible), the review team then has five business days to respond following a briefing, and if a review team member has an objection the Bureau is to resolve the objection in a timely manner (to the extent possible, within two weeks).

15. BLM believes that each Field Office would need at least 16 months (August 4, 2022 to December 3, 2023) to properly address the remedial NEPA analysis required by the Court Order.

Executed on the 1st day of September, 2022

Theresa M. Hanley
Montana/Dakotas
Associate State Director
Bureau of Land Management

Western Organization of Resource Councils, et al vs. BLM 4:20-cv-00076-GF-BMM

Schedule for Buffalo and Miles City Field Offices - SEIS/Proposed Plan Amendment (16 months)			
Tasks	Duration	Schedule	Regulation/Policy
Pre-NOI and Procurement (3 months)			
Departmental Review Team (DRT) - Initial Data and Screening	45 days	Aug 31 – Oct 14, 2022	ERM 10-11
Develop Project Prep Plan, NOI package, and MOUs	45 days	Aug 31 – Oct 14, 2022	BLM Land Use Planning Handbook 1601-1
Collect data and initiate coal screening			
Invite Cooperating Agencies and Contact Tribes			
Develop procurement package and Contracting Officer and Solicitor review	80 days	Aug 11 – Oct 31, 2022	National Operations Ctr. IM OC-2022-005
Contract publication, selection, and award	55 days	Nov 1 – Jan 10, 2023	Federal Acquisition Regulations Part 8 (8.405-6)
DRT Stage 1: NOI Briefing	16 days	Oct 17 – Nov 2, 2022	ERM 10-11
NOI Publication Process	5 days	Nov 2 – Nov 8, 2022	
Notice of Intent and Public Scoping (2 months)			
Notice of Intent Published and Public Scoping Period	30 days	Nov 10 – Dec 12, 2022	40 CFR 1501.7 43 CFR 1610.2(e) 40 CFR 1506(c)
BLM writes Chapter 1 (Purpose and Need, Issues)	30 days	Nov 10 – Dec 12, 2022	
Scoping Content Analysis, Scoping Report, Revisions to Chapter 1 (Issues)	24 days	Dec 13, 2022 – Jan 6, 2023	

Western Organization of Resource Councils, et al vs. BLM 4:20-cv-00076-GF-BMM

Schedule for Buffalo and Miles City Field Offices - SEIS/Proposed Plan Amendment (16 months)			
Tasks	Duration	Schedule	Regulation/Policy
DRT Stage 1a: End of Scoping Briefing	16 days	Jan 3 – Jan 19, 2023	ERM 10-11
Draft RMP/EIS (3 months)			
Draft Chapter 2 (Range of Alternatives)	15 days	Jan 3 – Jan 19, 2023	
Draft Chapter 3 Affected Environment Environmental Consequences	20 days	Jan 20 – Feb 8, 2023	
Review and Finalize Admin Draft EIS	23 days	Feb 9 – Mar 3, 2023	
Prepare and Review Draft EIS FRN Package			
DRT Step 2: Draft EIS Briefing	20 days	Mar 4 – Mar 24, 2023	ERM 10-11
Draft EIS Publication Process	7 days	Mar 25 – Mar 31, 2023	
Publish Draft EIS and NOA with EPA	1 day	Mar 31, 2023	40 CFR 1506.9-10(a) 43 CFR 46.415
Draft RMP/EIS Public Comment Period and Responses (4 months)			
DEIS Public Comment Period	90 days	Mar 31 – Jun 30, 2023	43 CFR 1610.2(e)
Complete application of coal screens			
Develop Comment Responses and Proposed Changes to Draft RMP/Draft EIS	30 days	Jul 1 – July 31, 2023	40 CFR 1503.4
Consultation requirements (NHPA, ESA)			

Western Organization of Resource Councils, et al vs. BLM 4:20-cv-00076-GF-BMM

Schedule for Buffalo and Miles City Field Offices - SEIS/Proposed Plan Amendment (16 months)			
Tasks	Duration	Schedule	Regulation/Policy
Proposed RMP/Final EIS (1.5 month)			
Write and Review Administrative Final EIS	30 days	Aug 1 – Aug 31, 2023	
Prepare and Review Final EIS NOA and FRN Package			
DRT Stage 3: Final EIS Briefing	10 days	Aug 30 – Sept 8, 2023	ERM 10-11
Final EIS Publishing Process	4 days	Sept 8 – Sept 12, 2023	
Publish Final EIS/Proposed RMP and NOA	1 day	Sept 13, 2023	40 CFR 1506.9-10(a) 43 CFR 46.415
Protest, Governor's Consistency Review, and Record of Decision (2.5 months)			
Governors' Consistency Review 60 days	60 days	Sept 13 – Nov 12, 2023	43 CFR 1610.3-2
Public Protest Period 30 days/Protest Resolution 30 days			
Prepare and Issue Record of Decision	20 days	Nov 13 – Dec 3, 2023	40 CFR 1505.2